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To: "US CEQ NEPA" <ceq_nepa@fs.fed.us>
cc:
Subject: Comments on NEPA implementing practices

08/31/02 06:26 PM

NEPA Task Force
P.O. Box 221150<?xml:namespace prefix = o ns =
"urn:schemas-microsoft-com:office:office" />
Salt Lake City, UT 84122

Dear Sirs:

My understanding of the use and implementation of NEPA is for an agency to study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.

Many times an agency fails to meet either the letter or the intent of the law, and instead use NEPA to justify an agenda or pre-determined decision of an agency or an individual. This is the case in a proposed action recently published in the Federal Register (provided below). The agenda is to **reduce the stocking rate and to reduce the area of the two allotments**. This has already been determined before the EIS is even started.

August 22, 2002 (Volume 67, Number 163)]
[Notices]
[Page 54406-54407]

Sawtooth National Forest, Idaho; Upper and Lower East Fork
Allotment Management Plan Analysis

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service will prepare an environmental impact statement (EIS) for the Upper and Lower East Fork Allotments. **The proposed action in the EIS is to authorize grazing through revised allotment management plans (AMPs) for the Upper East Fork Allotment and the Lower East Fork Allotment by reducing the stocking rate and reducing the area of the two allotments.** The EIS will analyze the effects of the proposed action and alternatives. The agency gives notice of the full National Environmental Policy Act (NEPA) analysis and decision making process on the proposal so interested and affected members of the public may participate and contribute to the final decision. The Sawtooth National Forest invites written comments and

suggestions on the scope of the analysis and the issues to address.

DATES: Written comments concerning the proposed project should be postmarked within 30 days from the day after publication of this announcement in the Federal Register. Comments received in response to this solicitation, including the names and addresses to those who comment, will be considered part of the public record on this proposal and will be available to public inspection. The draft environmental impact statement is expected to be available for public review and comment in January, 2003 and the final environmental impact statement is expected to be available September, 2003.

ADDRESSES: Send written comments to Lisa Stoeffler, Deputy Area Ranger at Stanley Ranger Station; HC 64, Box 9900; Stanley, Idaho, 83278. Faxes should be sent to 208-774-3003 and e-mails to lstoeffler@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed project and scope of analysis should be directed to Seth Phalen, Team Leader, at the above address, or phone at (202) 774-3000.

SUPPLEMENTARY INFORMATION: The analysis area is located in the White Cloud Mountain range in Custer County, south of Clayton, ID and is administered by the Sawtooth National Recreation Area (SNRA) of the Sawtooth National Forest. The two allotments are located in portions of Townships 7 and 8 North and Ranges 15, 16, and 17 East, Boise Meridian. The proposed action will be in compliance with Sawtooth National Forest Land and Resource Management Plan (Forest Plan of 1987), as amended, which provides overall guidance for management of this area and Public Law 92-400, the Organic Act for the Sawtooth National Recreation Area.

Purpose and Need for Action

Existing conditions on the allotments do not meet the desired future conditions identified in the Forest Plan. The AMPs were written prior to the listing of threatened chinook salmon, steelhead trout, bull trout, Canada lynx and Utes' Ladies Tresses and do not reflect their needs. Ten years of monitoring the project area has shown consistent overuse of riparian vegetation. The purpose and need for the proposed action is to prepare new AMPs to meet the present Forest Service policy and direction, Forest Plan direction, standards and guidelines, and to protect recently listed species.

Proposed Action

The Proposed Action would authorize grazing on the allotments but at reduced stocking rates and would reduce the area available for grazing within the two allotments. AMPs would be revised to reflect these changes. An adaptive management strategy, which would allow for

flexibility during the implementation for grazing strategy, would allow permittees to respond to changing conditions and unexpected results. Permitted numbers and seasons would be modified as necessary to meet standards, based on monitoring results of the previous season.

Possible Alternatives

Possible alternatives include: Alt. 1--continued grazing as currently permitted (No action); Alt. 2--reduced stocking rate and permitted area; Alt. 3--reduced stocking rate with the current permitted area; Alt. 4--current stock rate and permitted area under a deferred grazing system (applies to the Lower East Fork Allotment only), and Alt. 5--No grazing (grazing phased out).

Responsible Official

The responsible official is the Area Ranger of the Sawtooth National Recreation Area, Sawtooth National Forest.

Nature of the Decision To Be Made

The responsible official will decide if domestic livestock grazing can occur within the analysis area, and if so, where within the analysis area and at what intensity (timing and duration). The responsible official will also decide what structural range improvements (fences, water troughs, etc.), if any, are needed.

Scoping Process

Public notices have been placed in local newspapers.

Preliminary Issues

The following preliminary issues have been identified. (1) Livestock grazing may affect water quality and habitat for listed fish. (2) Livestock grazing may affect riparian and upland vegetation. (3) Livestock grazing may affect wildlife habitat. (4) Livestock grazing may affect the recreation experiences of visitors. (5) Changes in the current grazing numbers may affect the permittees.

Early Notice of Importance of Public Participation in Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date of Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public

participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues raised by the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Sincerely

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